



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 5 1996

REPLY TO THE ATTENTION OF:

SE-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Re: Lindsay Light II Site  
316 East Illinois Street, Chicago, Illinois

Dear Sirs:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency ("U.S. EPA") under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after receipt of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of receipt of the Order.

If you have any questions regarding the Order, feel free to contact Nancy-Ellen Zusman, Assistant Regional Counsel, at (312) 886-5825 or Verneta Simon, On-Scene Coordinator, at (312) 886-3601.

Sincerely yours,

William E. Muno, Director  
Superfund Division

Enclosure

cc: Gary King, IEPA Superfund Coordinator  
William O. Green, III, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 5

IN THE MATTER OF:

Lindsay Light II Site  
Chicago, Illinois

Respondents:

The Chicago Dock & Canal Trust  
Kerr-McGee Chemical Corporation

) Docket No. V-W- '96-C-353  
)  
) ADMINISTRATIVE ORDER  
) PURSUANT TO SECTION 106(a)  
) OF THE COMPREHENSIVE  
) ENVIRONMENTAL RESPONSE,  
) COMPENSATION, AND  
) LIABILITY ACT OF 1980,  
) AS AMENDED, 42 U.S.C.  
) SECTION 9606(a)

**I. JURISDICTION AND GENERAL PROVISIONS**

This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at 316 East Illinois Street, Chicago, Illinois (the "Lindsay Light II Site" or the "Site"). This Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

U.S. EPA has notified the State of Illinois of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

**II. PARTIES BOUND**

This Order applies to and is binding upon Respondents and Respondents' heirs, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondent with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance.

### III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

1. The Lindsay Light II Site ("the Site" or "the Facility") is located at 316 East Illinois Street, Chicago, Cook County, Illinois. The Site is situated in an urban area called the Gold Coast, and is surrounded by commercial and residential buildings. A shopping mall is located approximately 200 feet to the southeast. The Chicago River is located 1 mile south of the Site, and Lake Michigan is about 1.5 miles east of the Site.
2. The Site is currently a parking lot operated by General Parking, and owned by the Chicago Dock and Canal Trust ("CDCT").
3. Until 1936, Lindsay Light manufactured incandescent gas mantels at 161 East Grand, which is .25 miles from the Site. It is unknown if they worked elsewhere; however, Sanborn maps from 1906 do show Lindsay Light being at other Chicago locations. During 1931-1936, the company moved its operations to West Chicago, Illinois.
4. The principal ingredient in gas mantle manufacture is thorium as a nitrate. Small amounts of cerium, beryllium and magnesium nitrates are also used. Thorium occurs principally as the parent radionuclide thorium-232 in association with its daughter products in a decay sequence known as the Thorium Decay Series. Thorium radionuclides are also found in the Uranium Decay Series and the Actinium Decay Series. It is believed that the principal source of contamination at this Site is the Thorium Decay Series.
5. It is unclear what Lindsay Light actually did at 316 East Illinois; however, records from The Chicago Dock and Canal Trust indicate this Site was a stable, and that Lindsay Light leased portions of the building from The Chicago Dock and Canal Trust from 1915-1933.
6. On June 3, 1993, U.S. EPA and the Illinois Department of Nuclear Safety conducted a joint investigation at the Site. This investigation verified the presence of radioactivity at levels clearly above natural background. Gamma readings were found as high as 280 uR/hr on a Ludlum Model 19 Micro-R meter. Background measured at the Site had gamma readings of 20 uR/hr.

7. The Chicago Dock and Canal Trust entered into an Administrative Order by Consent ("AOC") with U.S. EPA to study the extent of subsurface radiation and radionuclide content before excavation. The AOC was signed by U.S. EPA on January 27, 1994, and the extent of contamination ("EOC") study was completed by CDCT in May 1994. The final report concerning the extent of contamination was delivered to U.S. EPA on October 17, 1995, and was approved on March 13, 1996.
8. A brief summary of the final report approved by U.S. EPA on March 13, 1996, is as follows: 12 areas exhibit elevated gamma levels; the maximum contamination depth extends to 2.5 meters (8 feet) below the ground surface; and Resource Conservation and Recovery Act ("RCRA")-characteristic waste is not present on-site. The highest gamma level is 252 times above background, or 1.1 milliRoentgen per hour.
9. Activities completed at this Site, besides the extent of contamination study, have been the voluntary placement by CDCT of notices at the entrances to the parking lot informing patrons of the risks associated with the lot.

#### IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, U.S. EPA determines that:

1. The Lindsay Light II Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
2. Radionuclides are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. Respondent The Chicago Dock & Canal Trust is the present "owner" and "operator" of the Lindsay Light II Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20). Respondent Kerr-McGee Chemical Corporation is a person who is the corporate successor of the Lindsay Light Company. The Lindsay Light Company was the operator of the Lindsay Light II Site at the time of disposal of any hazardous substances, or who arranged for disposal or transport for disposal of hazardous substances at the Lindsay Light II Site. Respondents are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).

6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:

a. actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants;

This factor is present at the Site due to the existence of a public parking lot on property found to have gamma readings measured as high as 1.1 milliRoentgen per hour. This reading is 252 times the background level measured for the Site.

Gamma rays are penetrating radiation indistinguishable from X-rays which can be absorbed by tissue in the human body, thereby increasing the cancer risk for the person exposed. The excess risk to a transient spending 29 minutes per day for a 250 day work year at the peak exposure spot is  $10^{-4}$ . Transients were judged to be parking lot customers, people using the lot for a short cut, or temporary workers.

The Site is surrounded by two-foot high steel guardrails, which do not totally restrict access. Furthermore, there are two parking attendants stationed at this parking lot on a 24-hour basis to collect fees, although initial readings taken on June 3, 1993, indicate that there were no levels above background where the attendants are stationed. Again, such an exposure entails cancer risk that would have no personal or societal benefit. Direct measurement with survey instruments at the present parking lot attendant stations found background radiation levels which were confirmed with longer measurements using thermoluminescent dosimeters ("TLDs") placed in the ticket booths between June 3, 1993, and June 30, 1993. Conditions at the Site have not changed since the site assessment on June 3, 1993. There is no guarantee that the ticket booths could not be moved to the peak point of gamma readings at some future time, thereby introducing the potential for exposure and risk to be actualized.

The EOC study confirmed that elevated radioactivity levels are due to past industrial processes. The Site is also surrounded by commercial and residential buildings, whose occupants use this parking lot and adjacent sidewalks. Situated 200 feet southeast of the Site is the North Pier shopping mall.

b. high levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate;

This factor is present at the Site due to the existence of elevated gamma exposure levels which validates subsurface deposits of radiological contaminants. The dominant concern is intrusion into these materials that will contaminate the intruder and their equipment and, further, lead to dispersal or spreading of the contaminants from their present locations. Such a scenario probably has arisen, and could again arise, with parking lot excavation where workers and their equipment are contaminated by radioactive soils, dry soil dispersed in the wind, and excavation spoils moved off-site. The number of people exposed could greatly increase and might include workers who subsequently use contaminated machinery, residents near the parking lot who might come in contact with wind dispersed soils, and use of excavation spoils. Such spreading could occur within downtown Chicago where the parking lot is located and out for several miles depending upon where workers reside and where spoils are used.

c. other situations or factors that may pose threats to public health or welfare or the environment;

This factor is present at the Site due to the property's planned future development. Such construction would entail excavating into potentially contaminated soils for placement of building footings and cause increased releases into the environment and human exposure to contaminants. Also, it has not been determined whether subsurface contaminants are soluble. If they are, there could be spreading via groundwater.

This Site appears to be gridded with sewer lines. These could be conduits for the spread of both soluble and insoluble materials off-site, for extension of the region of contamination, and for an increase in the potential for sewer workers to be exposed to contaminants.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

## V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, U.S. EPA hereby orders that Respondents perform the following actions:

### 1. Notice of Intent to Comply

Respondents shall notify U.S. EPA in writing within 3 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

### 2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions themselves or retain contractors to implement the removal actions. Respondents shall notify U.S. EPA of Respondents' qualifications or the name and qualifications of such contractors, whichever is applicable, within 10 business days of the effective date of this Order. Respondents shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If U.S. EPA disapproves a selected contractor, Respondents shall retain a different contractor within 2 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within 3 business days of U.S. EPA's disapproval.

Within 10 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If U.S. EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 3 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 4 business days of U.S. EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by all Respondents.

The U.S. EPA has designated Verneta Simon of the Emergency Response Branch, Region 5, as its On-Scene Coordinator (OSC). Respondents shall direct all submissions required by this Order to the OSC at U.S. EPA, 77 West Jackson Boulevard, SE-5J, Chicago, Illinois, 60604-3590, by certified or express mail. Respondents shall also send a copy of all submissions to Nancy-Ellen Zusman, Assistant Regional Counsel, 77 West Jackson Boulevard, C-29A, Chicago, Illinois, 60604-3590. All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

### 3. Work to Be Performed

Respondents shall perform, at a minimum, the following response activities:

- a. Develop and implement a Site Health and Safety Plan.
- b. Develop and implement Site security measures.
- c. Develop and implement an air monitoring program.
- d. Remove contamination until the cleanup criterion of 5 picoCuries per gram total radium (radium-226 + radium-228) over background is achieved. This cleanup criterion will be met in each 15 centimeter layer below the surface. Averaging over areas up to 100 square meters will be allowed, but only after reasonable efforts have been made to achieve levels As Low As Reasonably Achievable ("ALARA"). It is not U.S. EPA's intent to leave any elevated areas of contamination if at all possible.
- e. Establish local background for radium-226 and radium-228 from four soil samples taken on the property at points where the gamma exposure rates are lowest plus eight soil samples taken off-site, but in the immediate vicinity, of the parking lot.
- f. Transport and dispose of all characterized or identified hazardous substances, pollutants, wastes, or contaminants at a RCRA/CERCLA/IDNS-approved disposal facility in accordance with the U.S. EPA off-site policy.
- g. Conduct off-site surveying and sampling as necessary and, at a minimum, implement the standards of 40 Code of Federal Regulations ("CFR") 192, if deemed necessary should contamination be discovered beyond current site boundaries.

- h. Backfill all excavations with suitable material, and if soil, test borrow source for radioactivity and other pertinent characteristics in 40 CFR Part 261.

### 3.1 Work Plan and Implementation

Within 15 calendar days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order.

U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If U.S. EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 business days of notification. Respondents shall implement the Work Plan as finally approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the U.S. EPA approved work plan.

Respondents shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval.

### 3.2 Health and Safety Plan

Within 15 calendar days after the effective date of this Order, the Respondents shall submit a plan for U.S. EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 CFR Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

### 3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with U.S. EPA guidance. Upon request by U.S. EPA, Respondents shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondents shall provide to U.S. EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or

analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondents shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

### 3.4 Reporting

Respondents shall submit a monthly written progress report to U.S. EPA concerning activities undertaken pursuant to this Order, beginning 30 calendar days after the date of U.S. EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and the State. The notice to U.S. EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

### 3.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for U.S. EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

#### 4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Illinois representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which U.S. EPA determines to be necessary. Respondents shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractors, or on the Respondents' behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify U.S. EPA if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as U.S. EPA deems appropriate.

#### 5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in their possession or the possession of their contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to U.S. EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA.

## 6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a RCRA/CERCLA/IDNS-approved disposal facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR § 300.440, 58 Federal Register 49215 (Sept. 22, 1993).

## 7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA Section 121(e) and 40 CFR Section 300.415(i). In accordance with 40 CFR Section 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

## 8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions.

Respondents shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

## VI. AUTHORITY OF THE U.S. EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action

undertaken by U.S. EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

U.S. EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

#### **VII. PENALTIES FOR NONCOMPLIANCE**

Violation of any provision of this Order may subject Respondents to civil penalties of up to \$25,000 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1).

Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

#### **VIII. REIMBURSEMENT OF COSTS**

Respondents shall reimburse U.S. EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. U.S. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. U.S. EPA's Itemized Cost Summary, or such other summary as certified by U.S. EPA, shall serve as the basis for payment.

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency  
Superfund Accounting  
P.O. Box 70753  
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be

designated as "Response Costs - Lindsay Light II Site" and shall reference the payors' names and addresses, the U.S. EPA site identification number (YT), and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 CFR § 102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

#### **IX. RESERVATION OF RIGHTS**

Nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

#### **X. OTHER CLAIMS**

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

This Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

### XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

### XII. NOTICE OF COMPLETION

After submission of the Final Report, Respondents may request that U.S. EPA provide a Notice of Completion of the work required by this Order. If U.S. EPA determines, after U.S. EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), U.S. EPA will provide written notice to the Respondents. If U.S. EPA determines that any removal activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

### XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Nancy-Ellen Zusman, Assistant Regional Counsel, at (312) 886-5825 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

#### **XIV. OPPORTUNITY TO CONFER**

Within 3 business days after receipt of this Order, Respondents may request a conference with U.S. EPA. Any such conference shall be held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA within 2 business days following the conference, or within 7 business days of receipt of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Nancy-Ellen Zusman, Assistant Regional Counsel, at (312) 886-5825. Written submittals shall be directed as specified in Section V.2 of this Order.

#### **XV. SEVERABILITY**

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

#### **XVI. EFFECTIVE DATE**

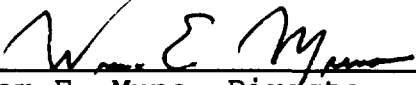
This Order shall be effective 10 business days following unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 5 business days after the day of the conference.

IN THE MATTER OF:

LINDSAY LIGHT II SITE  
CHICAGO, ILLINOIS

IT IS SO ORDERED

BY: \_\_\_\_\_

  
William E. Muno, Director  
Superfund Division  
United States  
Environmental Protection Agency  
Region 5

DATE: \_\_\_\_\_

6/6/76

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ACTION

ADMINISTRATIVE RECORD  
FOR  
LINDSAY LIGHT II  
CHICAGO, ILLINOIS

UPDATE #3  
JUNE 3, 1996

| <u>DATE</u> | <u>AUTHOR</u>              | <u>RECIPIENT</u> | <u>TITLE/DESCRIPTION</u>   | <u>PAGES</u> |
|-------------|----------------------------|------------------|--|--------------|
| 07/26/95    | STS<br>Consultants<br>Ltd. | U.S. EPA         | The Chicago Dock &<br>Canal Trust<br>Report for<br>Characterization<br>Investigation:<br>Gamma Radiation<br>Survey, Lindsay<br>Light II Site,<br>Chicago, IL<br>w/Attachments A-E<br>(3 Volumes) | 1324         |

LIST OF RESPONDENTS RECEIVING UNILATERAL ADMINISTRATIVE ORDER  
LINDSAY LIGHT II SITE

Kerr-McGee Chemical Corporation  
c/o Richard A. Meserve, Esq.  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044-7566

Chicago Dock & Canal Trust  
c/o Vincent S. Oleskiewicz, Esq.  
Baker & McKenzie  
One Prudential Plaza  
130 East Randolph Drive  
Chicago, Illinois 60601

bcc: Docket Analyst, ORC (C-29A)  
Nancy-Ellen Zusman, ORC (C-29A)  
~~Verneta Simon, OSC (SE-5J)~~  
Larry Jensen, ARD (AE-17J)  
John Maritote, EESS (SE-5J)  
Debbie Regel, EESS (SE-5J)  
Toni Lesser, Public Affairs (P-19J) w/out attachments  
Don Henne, Department of Interior  
Tony Audia (MF-10J)  
Records Center (SMR-7J)  
ERB Read File

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ACTION

ADMINISTRATIVE RECORD  
FOR  
LINDSAY LIGHT II  
CHICAGO, ILLINOIS

UPDATE #1  
SEPTEMBER 18, 1995

| <u>DATE</u> | <u>AUTHOR</u>  | <u>RECIPIENT</u>              | <u>TITLE/DESCRIPTION</u>  | <u>PAGES</u> |
|-------------|--|-------------------------------|---|--------------|
| 09/00/93    | Rogers &<br>Associates<br>Engineering<br>Corporation | Chicago Dock<br>& Canal Trust | Work Plan for<br>Characterization of<br>Radioactive<br>Contamination, 316<br>East Illinois St.,<br>Chicago, Illinois:<br>Appendix E,<br>Supplemental; Other<br>Sampling | 17           |
| 10/05/95    | Simon, V.,<br>U.S. EPA                               | Muno, W.,<br>U.S. EPA         | Action Memorandum:<br>Determination of<br>Threat to Public<br>Health or the<br>Environment at the<br>Lindsay Light II<br>Site   | 22           |

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ACTION

ADMINISTRATIVE RECORD  
FOR

LINDSAY LIGHT II  
CHICAGO, ILLINOIS

UPDATE #2 (REVISED)  
APRIL 1, 1996

| <u>DATE</u> | <u>AUTHOR</u>          | <u>RECIPIENT</u>      | <u>TITLE/DESCRIPTION</u>  | <u>PAGES</u> |
|-------------|------------------------|-----------------------|---|--------------|
| 04/22/96    | Simon, V.,<br>U.S. EPA | Muno, W.,<br>U.S. EPA | Action Memorandum:<br>Determination of<br>Threat to Public<br>Health and the<br>Environment at the<br>Lindsay Light II<br>Site, Chicago, IL | 40           |

## **ATTACHMENT B**

### **LIABILITY FILE INDEX**

1. Minutes from meetings of Lindsay Light II Company.  
1922, 1924, 1925, 1929, 1931.
2. Chicago Tribune article.  
July 1993.
3. 104(e) response from Kerr-McGee Corporation.  
January 3, 1994.
4. Press release issued by The Chicago Dock & Canal Trust.  
July 6, 1993.
5. Enforcement Confidential Addendum from Action Memo.  
April 1996.

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ACTION

ADMINISTRATIVE RECORD  
FOR  
LINDSAY LIGHT II SITE  
CHICAGO, ILLINOIS

ORIGINAL  
May 2, 1994

| <u>DATE</u> | <u>AUTHOR</u>  | <u>RECIPIENT</u>                                       | <u>TITLE/DESCRIPTION</u>                        | <u>PAGES</u> |
|-------------|--|--|---|--------------|
| 06/21/93    | Karl, R.,<br>U.S. EPA                                  | Klinger, J.,<br>Illinois Dept.<br>of Nuclear<br>Safety | Letter Illinois<br>Dept. of Nuclear<br>Safety   | 1            |
| 08/18/93    | Kouris, T.,<br>Ecology &<br>Environment,<br>Inc.       | Pfundheller,<br>J., U.S.EPA                            | Letter re:<br>Site Assessment                   | 4            |
| 08/26/93    | TMA Eberline   | Ecology &<br>Environment,<br>Inc.                      | Thermoluminescent<br>Dosimeter Badges<br>Data   | 3            |
| 08/27/93    | Klinger, J.,<br>Illinois Dept.<br>of Nuclear<br>Safety | Karl, R.,<br>U.S. EPA                                  | Response to U.S.<br>EPA Letter Dated<br>6/21/93 | 2            |
| 1/27/94     | Muno, W.,<br>U.S. EPA                                  | Chicago Dock<br>& Canal Trust                          | Administrative<br>Order by Consent              | 16           |
| 07/11/94    | Simon, V.,<br>U.S. EPA                                 | Muno, W.,<br>U.S. EPA                                  | Action Memorandum                               | 12           |